

(U.S. Patent No. 5,504,744) and will respond to this rejection on that ground.

Furthermore, during the telephone conference the Examiner also pointed to *Adams* (U.S. Patent No. 6,124,878) and applicant will therefore respond to the rejection as if both *Adams* references were being applied in the place of *Rostoker, et al.* In that light, applicant respectfully traverses.

The office action readily recognizes the shortcomings of *Lappington* and its failing to teach a method of monitoring data for satisfactory transmission. Claim 1 recites the invention as follows: “monitoring the data to be transmitted to determine whether the data will be transmitted so as to be received by said at least one remote receiver within a satisfactory predetermined time period; and changing the priority of the monitored data which has been determined will be transmitted so as to be received outside the satisfactory time period so that it will be transmitted to be received within the said satisfactory time period.”

The office action refers to *Adams* for the teaching of “a monitor for monitoring data to be transmitted to determine whether the data whether the data (sic) will be transmitted within a satisfactory predetermined time period (Col. 8, Lines 18-20 and Lines 49-57) and changing the priority of any data which has not been transmitted so that it will be transmitted within the said time period (Col. 8, Lines 18-28).” Applicant respectfully traverses.

This interpretation of *Adams* '744 does not appear correct. *Adams* '744 in Col. 8, Lines 17-28 discusses a situation where a customer wishes to transmit important data and thus allocates a higher priority to that important data. The arrival of this high priority

data causes other data to have its priority level downgraded (see Col. 8, Line 22) thus allowing the higher priority data to be transmitted in preference.

This is not the same as the system claimed in Claims 1, 8, and 10 of the present invention. Applicant's method and apparatus works in an opposite sense to the prior art of *Adams* '744 in that priority of certain data will be upgraded to insure that that data is transmitted within the required time period if the system would cause it to be received outside of the required time period.

Referring to *Adams* '878, the Examiner asserted in the interview that Col. 8, Lines 34-43 taught applicants claimed priority upgrading scheme. Although this section of *Adams* '878 states "As will be appreciated, the relevant data on FDC 26 may also be assigned this highest priority if desired.", this is not a teaching of applicant's claim and invention as set forth above. Column 9 of the *Adams* '878 patent explains that the three highest priority messages 40, 41, and 42 always have a higher priority than the network manager messages 43 and the application downloading messages 45, network managing messages 43 being a higher priority than application downloading messages 45 but a lower priority than messages 40, 41, and 42 (Col. 9, Lines 1-5). When the lower priority messages like network managing messages 43 and application downloading messages 45 are to be transmitted, bandwidth 65 is pre-empted by the higher priority network managing messages 43 and only the remaining bandwidth is allocated for use by the application downloading messages 45 (Col. 9, Lines 19-21). *Adams* '878 makes clear that no monitoring is occurring. Each of the different messages have been pre-assigned a certain priority based on their time sensitivity. These priorities are handled in a straightforward manner, the more time sensitive network management messages 43 are sent

before the less time sensitive application downloading messages 45 (Col. 9, Lines 34-38).

This is not how applicant's invention works and is not what is set forth in the pending claims.

Applicant respectfully requests that this rejection be withdrawn.

Claim 5 was rejected under 35 U.S.C. §103(a) as unpatentable over *Lappington* in view of *Adams, et al.* (both *Adams* '744 and *Adams* '878 are assumed) in view of *Keshav* (U.S. Patent No. 5,627,970). Applicant respectfully traverses. As discussed above, even if combined as suggested, *Lappington* and *Adams* do not teach all the limitations of Claim 1. Moreover, *Keshav* adds nothing to this failing combination of *Lappington* and *Adams*. Applicant respectfully requests this rejection be withdrawn.

In light of the above amendment and remarks, applicant believes that this case is in a condition for allowance and respectfully requests that it be passed to issue.

I hereby certify that this correspondence is being deposited on September 9, 2002 with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 and is addressed to the Commissioner for Patents, Box AF, Washington, D.C. 20231

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Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

1 1. (Twice Amended) A method of transmitting data, relating to a number of  
2 different categories, from a central location to at least one remote receiver, the method  
3 comprising:

4 allocating a priority to the data to be transmitted in accordance with its category,  
5 the priorities defining a relationship between the different categories of the data[.];

6 transmitting the data in a manner determined by the allocated priorities;

7 monitoring the data to be transmitted to determine whether the data will be  
8 transmitted so as to be received by said at least one remote receiver within a satisfactory  
9 predetermined time period; and, [if necessary,]

10 changing the priority of [any] the monitored data which has [not yet been  
11 transmitted] been determined will be transmitted so as to be received outside the  
12 satisfactory time period so that it will be transmitted to be received within the said  
13 satisfactory predetermined time period.

1 8. (Twice Amended) A method of providing services in conjunction with a  
2 TV broadcast system, [the method comprising: transmitting] wherein data relating to a  
3 number of different categories of services is transmitted in conjunction with a TV  
4 broadcast signal to a number of remote receivers [using a] the method [which comprises]  
5 comprising:

6 allocating a priority to the data to be transmitted in accordance with its category,  
7 the priorities defining a relationship between the different categories of the data;

8 transmitting the data in a manner determined by the allocated priorities;

9 monitoring the data to be transmitted to determine whether the data will be  
10 transmitted so as to be received by the remote receivers within a satisfactory  
11 predetermined time period; and, [if necessary,]

12 changing the priority [to any] of the monitored data which has [not yet been  
13 transmitted] been determined will be transmitted so as to be received outside the  
14 satisfactory time period so that it will be transmitted to be received within the said  
15 satisfactory predetermined time period.

1 10. (Twice Amended) Apparatus for transmitting data, relating to a number of  
2 different categories, from a central location to at least one remote receiver, the apparatus  
3 comprising:

4 a processing system for allocating a priority to the data to be transmitted in  
5 accordance with its category, the priorities defining a relationship between the different  
6 categories of the data, the processing system monitoring the data to be transmitted to  
7 determine whether the monitored data will be transmitted within a satisfactory  
8 predetermined time period, and if necessary, changing the priority of any monitored data  
9 which has been determined will be transmitted so as to be received outside the  
10 satisfactory time period so that it will be transmitted to be received within the said  
11 satisfactory predetermined time period; and

12 means for transmitting the data in a manner determined by the allocated priorities,  
13 [, the processing system being adapted to monitor the data to be transmitted and to  
14 determine whether the data will be transmitted within a satisfactory predetermined time  
15 period, and if necessary, to change the priority of any data which has not been transmitted  
16 so that it will be transmitted within the said time period.]